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5 Special Counsel for Appellant
RICHARD KIPPERMAN, Chapter 7 Trustee

8 **UNITED STATES BANKRUPTCY COURT**
 9 **SOUTHERN DISTRICT OF CALIFORNIA**

10
 11 In re:) **CASE NO. 99-33191-B7**
 12 **SARA NEWSOME BURNS**, an individual,)
 13) **ADV. NO. 01-90355-B7**
 14)
 15) **AMENDED NOTICE OF APPEAL**
 16)
 17) **APPEAL NO. 1**
 18)
 19)
 20)
 21)
 22)
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23 Richard Kipperman, the Chapter 7 trustee and plaintiff herein, appeals under 28 U.S.C.
 24 § 158(b) to the Bankruptcy Appellate Panel from the “*Order Granting Proulx's Motion for*
Summary Judgment” entered on December 28, 2001, by the Bankruptcy Court in this adversary
 proceeding, a copy of which is attached hereto as Exhibit 1 and the judgment entered thereon in
 substantially the form attached hereto as Exhibit 2.

28 / / /

1 The parties to the Judgment appealed from and the names, addresses, and telephone
2 numbers of their respective attorneys are as follows:

3 L. Scott Keehn, Esq.
4 Lisa L. Keehn, Esq.
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8 Bryan D. Sampson, Esq.
Elizabeth Aronson, Esq.
9 SAMPSON & ASSOCIATES
2139 First Avenue
10 San Diego, CA 92101
Telephone: (619) 557-9420
11 Attorneys for Defendant,
BRADLEY PROULX

Dated: January 4, 2002

ROBBINS & KEEHN
A Professional Corporation

By: /s/ Lisa L. Keehn
L. Scott Keehn
Lisa L. Keehn
Special Counsel for Appellant
RICHARD KIPPERMAN,
Chapter 7 Trustee

1 **SAMPSON & ASSOCIATES**
2 Bryan D. Sampson (#143143)
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4 (619)557-9420 / Fax (619)557-9425

4 Attorneys for Creditor
5 **BRADLEY PROULX**

ENTERED DEC 28 2001
FILED

DEC 23 2001
CLERK U.S. BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY 10 DEPUTY

8 **UNITED STATES BANKRUPTCY COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 In re:

11 **SARA NEWSOME BURNS,**

12 Debtor.

13 **RICHARD KIPPERMAN, Trustee**

14 Plaintiff,

15 v.

16 **BRADLEY PROULX, an individual**

17 Defendant.

CASE NO. 99-33191-B7

Adv. No.: 01-90355-B7

Chapter 7

**ORDER GRANTING PROULX'S
MOTION FOR SUMMARY JUDGMENT**

Date: December 17, 2001

Time: 2:30 p.m.

Ctrm: 4

Judge: Hon. Peter W. Bowie

19 Creditor/Defendant BRADLEY PROULX's motion for summary judgment in response to
20 Plaintiff RICHARD KIPPERMAN's Complaint To Determine Nature and Extent of Trustee's Lien And
21 For Declaratory Relief based upon 11 U.S.C. §544(a)(1) came before this court on the above date and
22 time, the Honorable Peter W. Bowie, presiding. Creditor BRADLEY PROULX appeared through his
23 counsel, Elizabeth Aronson. Trustee RICHARD KIPPERMAN was present and appeared through his
24 counsel, L. Scott Keehn. Upon reviewing the pleadings filed by the parties and hearing oral argument
25 presented by both parties, and good cause appearing therefor:

26 **///**

27 **///**

28

1 The Court's findings of fact and conclusions of law were stated orally by the Court, and
2 recorded in open session, following the close of argument, and, are incorporated herein by this
3 reference pursuant to Rules 7052 and 9014 of the Federal Rules of Bankruptcy Procedure, and
4 Rule 52(a) of the Federal Rules of Civil Procedure.

5 Based upon the foregoing,

6 **IT IS HEREBY ORDERED**, that,

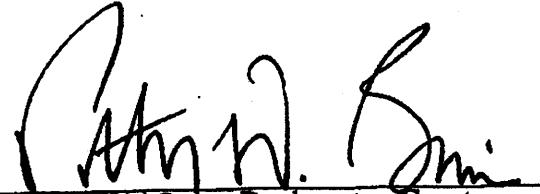
7 1.0 Creditor PROULX's motion for summary judgment is GRANTED as to the non-
8 avoidability of PROULX's ORAP lien under California Code of Civil Procedure Section 708.110;
9 and

10 2.0 Creditor PROULX's motion for summary judgment is DENIED in all other
11 respects.

12 **IT IS SO ORDERED.**

13
14 Dated: DEC 23 2001

15
16 Judge, United States Bankruptcy Court



17 NOTICE: Signature by the attorney constitutes a certification under Fed. R. Bankr. P. 9011
18 that the relief provided by the order is the relief granted by the court.

19 Submitted by:

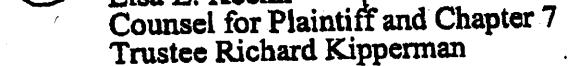
20 December 20, 2001


Bryan D. Sampson

21 Approved as to form.

22 DATED: 12/20/01

23
24 ROBBINS & KEEHN
25 A Professional Corporation


By: 
Lisa L. Keehn
Counsel for Plaintiff and Chapter 7
Trustee Richard Kipperman

26

27

28

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9 **BRADLEY PROULX**

10
11
12
13 **UNITED STATES BANKRUPTCY COURT**
14 **SOUTHERN DISTRICT OF CALIFORNIA**

15 In re:

16 **SARA NEWSOME BURNS,**

17 Debtor.

18 **RICHARD KIPPERMAN, Trustee**

19 Plaintiff,

20 v.
21 **BRADLEY PROULX, an individual**

22 Defendant.

CASE NO. 99-33191-B7

Adv. No.: 01-90355-B7

Chapter 7

JUDGMENT

Date: December 17, 2001

Time: 2:30 p.m.

Ctrm: 4

Judge: Hon. Peter W. Bowie

19 Defendant/Creditor BRADLEY PROULX's Motion for Summary Judgment came for hearing
20 against Plaintiff/Chapter 7 Trustee RICHARD KIPPERMAN on the above date and time, the Honorable
21 Peter W. Bowie presiding. Creditor BRADLEY PROULX appeared through his counsel, Elizabeth
22 Aronson. Trustee RICHARD KIPPERMAN was present and appeared through his counsel, L. Scott

23 Keehn. Upon reviewing the pleadings filed by the parties and hearing oral argument presented by both
24 parties and awarding summary judgment in favor of Judgment Creditor BRADLEY PROULX;

25 The court's findings of fact and conclusions of law were stated orally by the Court, and recorded
26 in open session, following the close of argument, and are incorporated herein by this reference pursuant
27 to Rules 7052 and 9014 of the Federal Rules of Bankruptcy Procedure and Rule 52(a) of the Federal
28 Rules of Civil Procedure.

1 IT IS SO ORDERED that Defendant/Creditor BRADLEY PROULX shall have judgment
2 against the bankruptcy estate of Chapter 7 Debtor Sara Newsome Burns.

3 IT IS HEREBY FURTHER ORDERED that the amount of Defendant/Secured Creditor
4 BRADLEY PROULX's secured claim as of the date of the petition of August 11, 1999, in the amount
5 of the \$150,000.00 cash fund, as defined in the complaint, plus interest accrued thereon.

6 **IT IS SO ORDERED.**

7
8 DATED: _____

Judge, United States Bankruptcy Court

10 NOTICE: Signature by the attorney constitutes a certification under Federal Rule of Bankruptcy
11 Procedure 9011 that the relief provided by the Order is the relief granted by the Court.

12 Submitted by:

13 January 4, 2002


Bryan D. Sampson, Esq.

15 Approved as to form.

16 DATED: 1 - 4 - 02

17 ROBBINS & KEEHN

18 By: 

19 L. Scott Keehn, Esq.
20 Attorney for Plaintiff and
Chapter 7 Trustee Richard Kipperman